

**ASSEMBLY BILL**

**No. 989**

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**Introduced by Assembly Member Garrick**

February 22, 2007

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An act to amend Sections 17053.30 and 23617 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 989, as introduced, Garrick. Income and corporation taxes: credit: natural heritage preservation: child care.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit an amount equal to 55% of the fair market value of any qualified contribution, as defined, contributed during the taxable year pursuant to the Natural Heritage Preservation Tax Credit Act of 2000, as provided.

The Corporation Tax Law authorizes various credits against the taxes imposed by that law, including a credit in an amount equal to 30% of the cost paid or incurred for startup expenses of establishing a child care program or constructing a child care facility, or for contributions to California child care information and referral services, as provided.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.30 of the Revenue and Taxation
- 2 Code is amended to read:

1 17053.30. (a) There shall be allowed as a credit against the  
2 “net tax,” as defined in Section 17039, an amount equal to 55  
3 percent of the fair market value of any qualified contribution made  
4 on or after January 1, 2000, and not later than June 30, 2008, by  
5 the taxpayer during the taxable year to the state, any local  
6 government, or any designated nonprofit organization, pursuant  
7 to Division 28 (commencing with Section 37000) of the Public  
8 Resources Code.

9 (b) For purposes of this section, a “qualified contribution” means  
10 a contribution of property, as defined in Section 37002 of the Public  
11 Resources Code, that has been approved for acceptance by the  
12 Wildlife Conservation Board pursuant to Division 28 (commencing  
13 with Section 37000) of the Public Resources Code.

14 (c) In the case of any passthrough entity, the fair market value  
15 of any qualified contribution approved for acceptance under  
16 Division 28 (commencing with Section 37000) of the Public  
17 Resources Code shall be passed through to the partners or  
18 shareholders of the passthrough entity in accordance with their  
19 interest in the passthrough entity as of the date of the qualified  
20 contribution. For purposes of this subdivision, ~~the term~~  
21 “passthrough entity” means any partnership, “S” corporation, or  
22 limited liability company treated as a partnership.

23 (d) If the credit allowed by this section exceeds the “net tax,”  
24 the excess may be carried over to reduce the “net tax” in the  
25 following year, and the succeeding seven years if necessary, until  
26 the credit is exhausted.

27 (e) This credit shall be in lieu of any other credit or deduction  
28 which the taxpayer may otherwise claim pursuant to this part with  
29 respect to the property or any interest therein that is contributed.

30 SEC. 2. Section 23617 of the Revenue and Taxation Code is  
31 amended to read:

32 23617. (a) For each taxable year beginning on or after January  
33 1, 1988, and before January 1, 2012, there shall be allowed as a  
34 credit against the “tax” (as defined by Section 23036) an amount  
35 equal to the amount determined in subdivision (b).

36 (b) (1) The amount of the credit allowed by this section shall  
37 be 30 percent of any of the following:

38 (A) The cost paid or incurred by the taxpayer on or after  
39 September 23, 1988, for the startup expenses of establishing a  
40 child care program or constructing a child care facility in California

1 *this state*, to be used primarily by the children of the taxpayer's  
2 employees.

3 (B) For each taxable year beginning on or after January 1, 1993,  
4 the cost paid or incurred by the taxpayer for startup expenses of  
5 establishing a child care program or constructing a child care  
6 facility in ~~California~~ *this state* to be used primarily by the children  
7 of employees of tenants leasing commercial or office space in a  
8 building owned by the taxpayer.

9 (C) The cost paid or incurred by the taxpayer on or after  
10 September 23, 1988, for contributions to California child care  
11 information and referral services, including, but not limited to,  
12 those that identify local child care services, offer information  
13 describing these resources to the taxpayer's employees, and make  
14 referrals of the taxpayer's employees to child care services where  
15 there are vacancies.

16 In the case of a child care facility established by two or more  
17 taxpayers, the credit shall be allowed if the facility is to be used  
18 primarily by the children of the employees of each of the taxpayers  
19 or the children of the employees of tenants of each of the taxpayers.

20 (2) The amount of the credit allowed by this section shall not  
21 exceed fifty thousand dollars (\$50,000) for any taxable year.

22 (c) For purposes of this section, "startup expenses" include, but  
23 are not limited to, feasibility studies, site preparation, and  
24 construction, renovation, or acquisition of facilities for purposes  
25 of establishing or expanding onsite or nearsite centers by one or  
26 more employers or one or more building owners leasing space to  
27 employers.

28 (d) If two or more taxpayers share in the costs eligible for the  
29 credit provided by this section, each taxpayer shall be eligible to  
30 receive a tax credit with respect to its respective share of the costs  
31 paid or incurred.

32 (e) (1) In the case where the credit allowed and limited under  
33 subdivision (b) for the taxable year exceeds the "tax," the excess  
34 may be carried over to reduce the "tax" in the following year, and  
35 succeeding years if necessary, until the credit has been exhausted.  
36 However, the excess from any one year shall not exceed fifty  
37 thousand dollars (\$50,000).

38 (2) If the credit carryovers from preceding taxable years allowed  
39 under paragraph (1) plus the credit allowed for the taxable year  
40 under subdivision (b) would exceed an aggregate total of fifty

1 thousand dollars (\$50,000), then the credit allowed to reduce the  
2 “tax” under this section for the taxable year shall be limited to fifty  
3 thousand dollars (\$50,000) and the amount in excess of the fifty  
4 thousand dollar (\$50,000) limit may be carried over and applied  
5 against the “tax” in the following year, and succeeding years if  
6 necessary, in an amount which, when added to the credit allowed  
7 under subdivision (b) for that succeeding taxable year, does not  
8 exceed fifty thousand dollars (\$50,000).

9 (f) No deduction shall be allowed as otherwise provided in this  
10 part for that portion of expenses paid or incurred for the taxable  
11 year which is equal to the amount of the credit allowed under this  
12 section attributable to those expenses.

13 (g) In lieu of claiming the tax credit provided by this section,  
14 the taxpayer may elect to take depreciation pursuant to Section  
15 24371.5. In addition, the taxpayer may take depreciation pursuant  
16 to that section for the cost of a facility in excess of the amount of  
17 the tax credit claimed under this section.

18 (h) The basis for any child care facility for which a credit is  
19 allowed shall be reduced by the amount of the credit attributable  
20 to the facility. The basis adjustment shall be made for the taxable  
21 year for which the credit is allowed.

22 (i) No credit shall be allowed under subparagraph (B) of  
23 paragraph (1) of subdivision (b) in the case of any taxpayer that  
24 is required by any local ordinance or regulation to provide a child  
25 care facility.

26 (j) (1) In order to be eligible for the credit allowed under  
27 subparagraph (A) or (B) of paragraph (1) of subdivision (b), the  
28 taxpayer shall submit to the Franchise Tax Board upon request a  
29 statement certifying that the costs for which the credit is claimed  
30 are incurred with respect to the startup expenses of establishing a  
31 child care program or constructing a child care facility in ~~California~~  
32 *this state* to be used primarily by the children of the taxpayer’s  
33 employees or the children of the employees of tenants leasing  
34 commercial or office space in a building owned by the taxpayer  
35 and which will be in operation for at least 60 consecutive months  
36 after completion.

37 (2) If the child care center for which a credit is claimed pursuant  
38 to this section is disposed of or ceases to operate within 60 months  
39 after completion, that portion of the credit claimed which represents  
40 the remaining portion of the 60-month period shall be added to

1 the taxpayer's tax liability in the taxable year of that disposition  
2 or nonuse.

3 (k) In order to be allowed the credit under subparagraph (A) or  
4 (B) of paragraph (1) of subdivision (b), the taxpayer shall indicate,  
5 in the form and manner prescribed by the Franchise Tax Board,  
6 the number of children that the child care program or facility will  
7 be able to legally accommodate.

8 (l) On or before January 1, 2011, the Franchise Tax Board shall  
9 submit to the Legislature a report on the following:

10 (1) The dollar amount of credits claimed annually.

11 (2) The number of child care facilities established or constructed  
12 by taxpayers claiming the credit.

13 (3) The number of children served by these facilities.

14 (m) This section shall remain in effect only until December 1,  
15 2012, and as of that date is repealed.